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Paper No. 20

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MAY 27 2003

OFFICE OF PETITIONS

In re Application of
Uskela, et al.
Application No. 09/405,088
Filed: September 27, 1999
Attorney Docket No. 017.37498X00
For: SPONSORED NETWORK GAMES

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), and in the alternative, under 37 CFR 1.137(b), filed April 16, 2003, to revive the above-identified application.

This application became abandoned for failure to properly reply to the final Office action of July 6, 2001. An amendment filed on October 3, 2001 did not place this application in *prima facie* condition for allowance, as was pointed out in the Advisory Action of October 22, 2001. A telephonic interview was conducted on November 7, 2001 and memorialized by the Interview Summary mailed November 9, 2001. The November 9, 2001 Interview Summary was incomplete, but intimated that prosecution should be reopened. However, the requirement to properly respond to the July 6, 2001 was not removed by the Interview Summary. Thus, this application became abandoned upon the expiration of the three month period for reply on October 7, 2001.

Petitioner argues that the abandonment was unavoidable because the attorney of record reasonably relied upon Primary Examiner Harrison's statement regarding reopening prosecution.

A review of the Interview Summary of February 11, 2003 which attaches a corrected/complete Interview Summary of November 9, 2001 reveals that Primary Examiner Harrison wrote, "...[P]rosecution will be reopened and an (sic) new office action issued on the file." The complete Interview Summary is a contemporaneous record that shows that it was reasonable for the attorney of record to rely on an impending reopening of prosecution to remove the requirement that petitioner properly respond to the July 6, 2001 final Office action.

The petition under 37 CFR 1.137(a) is **granted**.

The petition under 37 CFR 1.137(b) is **dismissed as moot**.

Pursuant to petitioners' authorization, deposit account no. 01-2135 will be credited the \$1300.00 fee associated with filing a petition to revive under 37 CFR 1.137(b).

The file is being returned to Technology Center 3700.

Telephone inquiries concerning this matter may be directed to the undersigned at (703) 308-6712.

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